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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,221	03/06/2000	Chaitanya Kanojia	2657.2001005	7967

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EXAMINER

NEURAUTER, GEORGE C

ART UNIT PAPER NUMBER

2143

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/519,221

Applicant(s)

KANOJIA ET AL.

Examiner

George C. Neurauter, Jr.

Art Unit

2143

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____


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Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that "NewNet" does not disclose a unique identifier used to address an embedded device that is independent of any communication protocol. As shown previously by the Examiner, "NewNet" discloses that messages are routed to the SMSC or "queue manager" as recited in the claims that are destined for devices contained within a plurality of communication networks (page 6, section 4.2 "Subscriber Services", specifically "Mobile-oriented short messages are transported from the handset to the SMSC and can be destined to other mobile subscribers or for subscribers on fixed networks such as paging networks or electronic mail networks. Mobile-terminated short messages are transported from the SMSC to the handset and can be submitted to the SMSC by other mobile subscribers...or by other sources such as voice mail systems, paging networks, or operators.") Therefore, in order for the SMS system to be able to operate within this universal messaging environment, there must be a unique device identifier such as a telephone number as is known within the art and used in the SMS system that allows for the delivery of this message and it must be independent of any communication protocol since the message is forwarded along these heterogenous networks. Therefore, "NewNet" does at least inherently disclose this limitation.

The Applicant also argues that "NewNet" does not disclose transmitting a message to a destination address associated with an embedded device regardless of whether the embedded device is active on the data network. The Examiner does not agree. "NewNet" does disclose this limitation as claimed (page 6, section 4.2 "Subscriber Services", specifically "For messages not requiring immediate delivery, one or more delivery attempts are made until an acknowledgement is received"). The Applicant also argues that a difference between "NewNet" and the claimed invention is that registration on the network is not required. However, the claims do not specifically require this. Also, in view of the claim's broadest reasonable interpretation, the Examiner submits that another valid interpretation of the claim may be wherein the router blindly attempts to forward the message without any regard for the status of the embedded device. This interpretation also considers that a message may be sent to the destination device without regard as to whether the device is registered on the network or not. Therefore, absent of any requirement or explanation within the claims as to how the message can be received by a device and an acknowledgement sent to the router when the device is not active on the network which includes the interpretation wherein the device is offline and disconnected from the network, the claims are not in condition for allowance. It is suggested that the claims be amended to more specifically define these features that are argued by the Applicant to distinguish over the disclosures of "NewNet" and the level of knowledge of one of ordinary skill in the art.